

GOVERNMENT OF TELANGANA  
ABSTRACT

Home (Courts.B) Department – Trial of Central Government employees under the Prevention of Corruption act involved in Crime No.42/2011 under sections 403, 409, 468, 471, 420 & 201 of the Indian Penal Code, 1860 Section 66 (C) of the IT Act, 1961 and section 13(2) r/w 13(1)(c)(d) of the Prevention of Corruption Act, 1988 – Entrustment of case to the State Agency i.e., the Additional Director General of Police, Crime Investigation Department, Telangana State, Hyderabad – Orders – Issued.

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HOME (COURTS.B1) DEPARTMENT

G.O.Rt.No. 88

Dated: 07-02-2017

Read:-

From the Additional Director General of Police, CID, Telangana State,  
Letter C.No.6124/C-9/C13/CID/2011, dated.01-04-2015.

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**ORDER:**

Whereas, the Additional Director General of Police, Crime Investigation Department, Telangana State, Hyderabad has requested to offer opinion regarding trial of Central Government employees under the Prevention of Corruption Act by the State agencies or the cases may be transferred to Central Bureau of Investigation as per Delhi Special Police Establishment Act for further necessary action by the investigating agency. The Additional Director General of Police, Crime Investigation Department, Telangana State, Hyderabad has stated that the following question of law needs an elaborate appreciation and opinion and the same is sought by the department for guidance in several cases pending with Crime Investigation Department, Telangana State, Hyderabad.

2. And whereas, it was reported by the Additional Director General of Police the question whether the Central Government employees involved in cases of corruption are amenable to the investigation of the Central Bureau of Investigation, a body created under the Delhi Special Police Establishment Act, 1946 hereinafter referred to as Delhi Special Police Establishment Act, 1946 or there is any possibility of any local investigation department can operate, to check the illegal action of such employee.

3. And whereas, it is further reported that the Scheme of Delhi Special Police Establishment Act creates the jurisdiction and competence of the establishment to go into the aspects of criminal activities done by the employees within the State of Delhi or the places to which the Delhi Special Police Establishment Act extends. The Anti Corruption Bureau of the Delhi Special Police Establishment Act has the jurisdiction over all the Central Government employees in view of the proven of the Delhi Special Police Establishment Act. It is a matter of record that the aforesaid question is also largely debated in various Courts.

4. And whereas, the contra view to the aforesaid extension of jurisdiction of Central Bureau of Investigation under the Delhi Special Police Establishment Act is well advanced by the States in the country, on the premise that the law & order which engulfs the aforesaid question falls within list: 2 of the Schedule-VII of the constitution of India. Having placed the issue of law & order within the domain of the State Government which exercises all the controls of administration over the subjects working/ residing within the territorial limits of the concerned State, the extension of the Delhi Special Police Establishment Act to that concerned State is improper, illegal apart from being unconstitutional.

[P.T.O.]

5. And whereas, the said view is contested on behalf of the advocates of the DSPE Act that in view of the consent of the State Government concerned under section 6 of Delhi Special Police Establishment Act, there is no barging of the Union into State powers. It is also advocated that the doctrine of separation of powers as envisaged under the constitution, the unique feature of the constitution of India is very much intact. In factual matrix also it is clear that the applicability of Delhi Special Police Establishment Act is extended to the erstwhile State of Andhra Pradesh by issuing a notification vide G.O.Rt.No.550, dated:21-02-1990 where under the State Government consented for the CBI to investigate into cases that arise within its domain as against Central Government employees.

6. And whereas, it is reported that the dichotomy of view on the subject is still not crystallized properly even though the decisions reported in "A.C.Sharma-Vs-Delhi Administration" AIR 1973 (913), "Ashok Kumar Kirthiwar and another-Vs-State of M.P." reported in 2001 CrI.J.2785 and "Dr.G.S.R.Somayaji-Vs-State through CBI" reported in 2001(2) ALD (CrI.) 692 are some of the decisions which keep the debate alive on the question posed supra. The Apex Court in A.C. Sharma's case held that "the Delhi Special Police Establishment Act seems to be only permissive of empowering, intended merely to enable the Delhi Special Police Establishment Act also to investigate into the offences specified as contemplated by Section 3 without impairing any other law empowering the regular police authorities to investigate offences"

7. And whereas, it was followed by a Division Bench of the M.P. High Court in "Ashok Kumar Kirthwar's case which hold that the Delhi Special Police Establishment Act does not deprive the State Police of it's jurisdiction to investigate the offences of bribery and corruption against the Government employees posted in the State. In fact, to a large extent through that view was followed by the High Court of Andhra Pradesh in Dr. Somayajee's case it is held that as the Delhi Special Police Establishment Act envisages investigation by the Central Bureau of Investigation the initial action on the part of the Anti Corruption Bureau of the State can be reconciled to the extent of not being illegal. But the said decision deserves that "a defect or illegality committed by the investigating agency regarding its limitations the said illegality or defect in investigation can have no direct bearing on the competence or the procedure relating to cognizance or trial. In one of the matters that are pending adjudication before the concerned criminal Court pending investigation, when certain directions are sought for by the Crime Investigation Department, for attachment of properties under the provisions of criminal law amendment ordinance 1944, the Court entertained a doubt as to it's jurisdiction in view of the Special Courts constituted for Central Bureau of Investigation cases for trial of Central Government employees under Delhi Special Police Establishment Act.

8. And whereas, the Government of Telangana, after careful examination of the proposal, have decided to entrust the trial of Central Government employees under the Prevention of Corruption act involved in Crime No.42/2011 under sections 403, 409, 468, 471, 420 & 201 of the Indian Penal Code, 1860 section 66 (C) of the IT Act, 1961 and section 13(2) read with 13(1)(c)(d) of the Prevention of Corruption Act, 1988 to the State Agency i.e., the Additional Director General of Police, Crime Investigation Department, Telangana State, Hyderabad as the misappropriated amount is Rs.1,04,64,938 being less than Rs.3.00 Crore in terms of Office Memorandum in No.21/21/2004-PO/2620, dated:24-08-2012 of the Central Bureau of Investigation, it is within the Jurisdiction of Local Police / State Police.

9. Accordingly, permission is hereby accorded to the Additional Director General of Police, Crime Investigation Department, Telangana State, Hyderabad to try the Central Government employees under the Prevention of Corruption act involved in Crime No.42/2011 under sections 403, 409, 468, 471, 420 & 201 of the Indian Penal Code, 1860 section 66 (C) of the IT Act, 1961 and section 13(2) read with 13(1)(c)(d) of the Prevention of Corruption Act, 1988.

10. The Additional Director General of Police, Crime Investigation Department, Telangana State, Hyderabad is requested to take necessary further action in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

A.SANTHOSH REDDY,  
SECRETARY TO GOVERNMENT,  
LEGAL AFFAIRS, LEGISLATIVE AFFAIRS & JUSTICE.

To  
The Additional Director General of Police,  
Crime Investigation Department, Telangana State.

**Copy to:-**

The Director of General of Police, Telangana State, Hyderabad.  
The Law (C) Department.  
Sf/Sc.

// FORWARDED :: BY ORDER //

SECTION OFFICER.